



# FLORIDA DEPARTMENT OF EDUCATION OFFICE OF INSPECTOR GENERAL



Dr. Tony Bennett  
Commissioner

## INVESTIGATIVE REPORT

Mike Blackburn  
Inspector General

### Case Number:

2013-0003

### Date of Complaint:

February 23, 2012

### Complainant:

Diane Lewis, Director of Instructional Technology, Seminole County Public Schools

### Subject:

K12 Florida, LLC

### Witnesses:

Fifteen K12 Florida, LLC, teachers for the 2010/2011 school year  
K12, Inc., administrators and staff  
Seminole County Public Schools administrators and staff

### Period of Investigation:

February 2012 to March 2013

### Type of Report:

DRAFT for Subject Response

## BACKGROUND

### **Seminole County Public Schools**

In accordance with Section 1002.45(1)(b), Florida Statutes, 2010, all Florida school districts are required to offer at least one online or virtual school program for students in Kindergarten through 12<sup>th</sup> grade who reside within their district.<sup>1</sup> Seminole County Public Schools (SCPS) must offer three. SCPS selected K12 Florida, LLC, as their contracted virtual school provider and entered into an agreement on June 16, 2009. SCPS is responsible for reporting virtual student enrollments, attendance, and progress in accordance with the Florida Department of Education (FDOE) mandatory reporting requirements of Section 1008.31(3)(a) and Section 1011.62(1)(a), Florida Statutes.

### **K12, Inc.**

K12, Inc., is a for-profit education company that provides online schooling and curriculum to state and local governments (*Exhibit C*). They are headquartered in Herndon, Virginia. Their product line includes courses for elementary, middle, and high school grades, online learning platforms, and educational software. The educational products and services provided by K12, Inc., are designed as alternatives to traditional "bricks and mortar" education for public school students from Kindergarten through 12<sup>th</sup> grade. The company manages state-funded virtual charter schools in 29 states, including Florida. Instruction is facilitated by the "learning coach" (typically a parent or guardian) with the assistance and guidance of a state-certified teacher assigned by the school. Teacher interaction is accomplished through virtual classroom environments, telephone, and face-to-face meetings.

### **K12 Florida, LLC**

K12 Florida, LLC, (K12) is an FDOE approved contracted third party provider of virtual instruction programs in 38 school districts in Florida including SCPS. They are a subsidiary of K12, Inc., and are headquartered in Jacksonville, Florida. K12's virtual instruction program covers Kindergarten through

<sup>1</sup> Larger school districts are required to offer three virtual school programs, while smaller districts are required to offer one.

12<sup>th</sup> grade in SCPS. K12 is responsible for providing qualified Florida certified teachers who have cleared background checks through SCPS or other duly authorized school boards in order to provide instruction to enrolled students. According to K12, their teaching model for the 2010-2011 school year included assigning each student to a homeroom teacher. The homeroom teacher worked directly with the student and the student's parent or other responsible adult, called the "learning coach" to ensure the student was completing their assignments. The homeroom teacher was responsible for tracking progress, monitoring attendance, directing students to direct instruction sessions or other interventions conducted by other subject matter experts, supporting the student's learning goals, answering questions, and disseminating school announcements. According to K12, students had daily access to both their homeroom teacher for general information, support and guidance and daily access to teachers that are certified within each subject area. The subject area instructors' duties included conducting regularly scheduled direct instruction sessions through *Elluminate* (a web meeting tool), reviewing and evaluating student work, providing feedback to students on their subject matter performance, grading student work, holding scheduled office hours and otherwise being accessible to provide additional assistance to students.<sup>2</sup>

## INTRODUCTION

On behalf of SCPS, Diane Lewis, Director of Instructional Technology, SCPS, forwarded a written complaint on February 23, 2012, to FDOE, Office of Inspector General (OIG). One of Lewis' responsibilities is to oversee the Seminole Virtual Instruction Program. In 2009, SCPS selected K12 as a virtual school provider for the Seminole Virtual Instruction Program for Kindergarten through 12<sup>th</sup> grade. The complaint alleged that from 2009 to 2011, K12 used teachers that were not Florida certified and provided SCPS with inaccurate student/certified teacher lists (*Exhibit A*).

In the complaint, Lewis explained that in September 2009, K12 asked if they could have non-Florida certified teachers (teacher of class) instruct students, and then allow Florida certified teachers (teacher of record) to sign off on a non-Florida certified teacher's work. Walt Griffon, Executive Director for High Schools, SCPS, responded to K12 that teachers working with students "need to be certified and fingerprinted." Lewis stated that Seminole County Virtual Instruction Program staff reiterated to K12 during a follow-up phone conference that K12 was not allowed to use non-Florida certified teachers to instruct students and then report the students under a certified teacher's name. Lewis further stated in the complaint that K12 uses the same teachers in other school districts across the state in virtual instruction programs, and this issue may reach far beyond SCPS.

On April 17, 2012, Lewis provided the OIG with additional information regarding the accuracy of class roles for K12 teachers and students (*Exhibit E*). Lewis called parents and asked them to list the names of teachers for their children that were listed on the February 2011 class rolls, as signed and verified by the K12 teachers. Parents of 61 students reported to Lewis that they did not recognize at least one teacher listed on the class roll.

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<sup>2</sup> The FDOE, Office of Inspector General reviewed the Auditor General's Operational Audit, Report Number 2013-094, released on February 23, 2013, which was conducted on the State's Virtual Instruction Programs (VIPs). The audit focused on the administration and oversight of the VIPs and compliance with selected provisions in Sections 1002.45 and 1002.455, Florida Statutes. Audit procedures were performed at FDOE, 12 of the 67 Florida school districts (Alachua, Brevard, Broward, Calhoun, Duval, Glades, Hillsborough, Jackson, Leon, Miami-Dade, Polk, and Volusia), and 2 of the FDOE approved VIP providers (K12, Inc., and PLATO Learning, Inc.). The audit disclosed areas in which enhancements in VIP administrative rules, controls, and operational processes were needed to better promote and encourage accountability, compliance with controlling laws, economic and efficient operations, and the safeguarding of assets. The audit also disclosed instances of noncompliance with State laws and deficiencies in VIP information technology controls and practices.

Subsequent to the receipt of this information, and in accordance with Section 1001.20, (4)(e), Florida Statutes, the Commissioner of Education directed the OIG to initiate an investigation into possible violations of applicable Florida Statutes (*Exhibit B*) and the contractual agreement between K12 and SCPS (*Exhibit D*).

On December 3, 2012, Lewis provided a statement (*Exhibit L*) and supporting documentation<sup>3</sup> listing K12 teachers she believed were teaching out-of-field. According to Lewis, "In 2010-11 there are 16 instances of teachers reported by K12 as the teachers of the class that were not certified in the subjects they were reported as teaching. This is also the year in which emails from K12 and a survey of parents indicated that teachers reported by K12 may not always be the teachers working with the students." This new information was incorporated into the ongoing investigation of the previous two allegations presented by Lewis.

### ALLEGATIONS AND FINDINGS

1. K12 Florida, LLC, the virtual school provider for the Seminole Virtual Instruction Program, used teachers that were not Florida certified. **Unsubstantiated.**
2. K12 Florida, LLC, provided Seminole County Public Schools with inaccurate student/certified teacher lists for the 2010/2011 school year. **Substantiated.**
3. K12 Florida, LLC, assigned teachers for the 2010/2011 school year to instruct classes outside of the field in which they were certified. **Substantiated.**

### GOVERNING DIRECTIVES

1. Section 119.021(2), Florida Statutes - Custodial requirements; maintenance, preservation, and retention of public records:
  - (a) The Division of Library and Information Services of the Department of State shall adopt rules to establish retention schedules and a disposal process for public records.
  - (a) Each agency shall comply with the rules establishing retention schedules and disposal processes for public records which are adopted by the records and information management program of the division.
2. Section 1002.45(2), Florida Statute, 2009 - Provider Qualifications:
  - (a) The department shall annually provide school districts with a list of providers approved to offer virtual instruction programs. To be approved by the department, a provider must document that it:
    3. Locates an administrative office or offices in this state, requires its administrative staff to be state residents, requires all instructional staff to be Florida-certified teachers under chapter 1012, and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records.

<sup>3</sup> The OIG converted the list of names into a spreadsheet (Exhibit M, columns A through J).

3. Section 1003.25, Florida Statutes, 2009 - Procedures for maintenance and transfer of student records:
  - (1) Each principal shall maintain a permanent cumulative record for each student enrolled in a public K-12 school. Such record shall be maintained in the form, and contain all data, prescribed by rule by the State Board of Education. The cumulative record is confidential and exempt from the provisions of s. [119.07\(1\)](#) and is open to inspection only as provided in chapter 1002.
4. Section 1008.31(3), Florida Statutes - K-20 Education Data Quality Improvements:
  - (a) School districts and public postsecondary educational institutions shall maintain information systems that will provide the State Board of Education, the Board of Governors of the State University System, and the Legislature with information and reports necessary to address the specifications of the accountability system. The level of comprehensiveness and quality shall be no less than that which was available as of June 30, 2001.
5. Section 1011.62(1), Florida Statutes - Computation of the Basic Amount to be included for Operation:
  - (a) Determination of full-time equivalent membership - During each of several school weeks, including scheduled intersessions of a year-round school program during the fiscal year, a program membership survey of each school shall be made by each district by aggregating the full-time equivalent student membership of each program by school and by district. The department shall establish the number and interval of membership calculations, except that for basic and special programs such calculations shall not exceed nine for any fiscal year. The district's full-time equivalent membership shall be computed and currently maintained in accordance with regulations of the commissioner.
6. Section 1012.42, Florida Statutes, 2009 - Teacher teaching out-of-field:
  - (1) Assistance - Each district school board shall adopt and implement a plan to assist any teacher teaching out-of-field, and priority consideration in professional development activities shall be given to teachers who are teaching out-of-field. The district school board shall require that such teachers participate in a certification or staff development program designed to provide the teacher with the competencies required for the assigned duties. The board-approved assistance plan must include duties of administrative personnel and other instructional personnel to provide students with instructional services. Each district school board shall contact its regional workforce board, created pursuant to s. [445.007](#), to identify resources that may assist teachers who are teaching out-of-field and who are pursuing certification.
  - (2) Notification Requirements – When a teacher in a district school system is assigned teaching duties in a class dealing with subject matter that is outside the field in which the teacher is certified, outside the field that was the applicant's minor field of study, or outside the field in which the applicant has demonstrated sufficient subject area expertise, as determined by district school board policy in the subject area to be taught, the parents of all students in the class shall be notified in writing of such assignment.

7. Section 1012.55, Florida Statutes, 2009 - Positions for which certificates required:

- (1) The Department of Education shall identify appropriate educator certification for the instruction of specified courses in an annual publication of a directory of course code numbers for all programs and courses that are funded through the Florida Education Finance Program.

8. Rule 1B-24.003, Florida Administrative Code, Records Retention Scheduling and Disposition:

- (1) The Division issues General Records Schedules which establish minimum retention requirements for record series common to all agencies or specified types of agencies based on the legal, fiscal, administrative, and historical value of those record series to the agencies and to the State of Florida.

9. Rule 6A-1.04513, Florida Administrative Code, Maintaining Auditable FTE Records:

Each school district shall maintain documentation adequate to support the full-time equivalent student membership of the district. Such documentation shall include, but is not limited to, all student membership survey forms, all student attendance records, and all student schedule records. These records shall be maintained in auditable condition, shall be made available to the Department of Education for auditing, and shall be kept for a period of three (3) years or until the completion of audit by the Department, whichever period is longer.

10. Rule 6A-1.0451, Florida Administrative Code, Florida Education Finance Program Student Membership Surveys:

(4) School districts may submit amendments to student membership survey data in accordance with the following schedule: Survey Period 1 (July) may not be amended after September 30 following the survey; Survey Period 2 (October) may not be amended after March 31 following the survey; Survey Period 3 (February) may not be amended after July 31 following the survey; Survey Period 4 (June) may not be amended after August 31 following the survey, or until a membership survey audit as required by Rule 6A-1.0453, F.A.C., has been completed, whichever shall take place first. Such amendments which are submitted too late to be reviewed and included in the last membership data determining the earnings of Florida education finance program funds for the given year shall be treated as prior year adjustments.

11. Rule 6A-1.09412, Florida Administrative Code, Course Requirements, Grades K-12 Basic and Adult Secondary Programs:

Course requirements approved by the State Board of Education are contained in the publications "2012-2013 Florida Course Descriptions for Grades K-12/Adult, Basic Education."

12. Rule 6A-1.09441, Florida Administrative Code, Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation:

- (3) The student shall be under the supervision on an instructional staff member as defined in Section 1012.01(2), F.S.



(4) The course or program shall be listed in the "Course Code Directory and Instructional Personnel Assignments" for the year in which the student is in membership.

13. Contract Agreement between the School Board of Seminole County, Florida and K12 Florida, LLC, Article II, Paragraph 4.5 - Administrative and Technical Services:

K12 will provide program launch and ongoing operational support, manage student enrollment working in partnership with the School Board of Seminole County's enrollment reporting team, provide parent/mentor training and support, provide survey and academic reporting to the district, relative to both student and staff data to support state mandated requirements, including inputs for school accountability reports.

## **ALLEGATIONS 1 and 2: EVIDENCE & TESTIMONY**

### **Testimony of Diane Lewis, Director of Instructional Technology, SCPS**

According to Lewis, K12 proposed to have a teacher of record that was different than the teacher that was actually teaching the students. Lewis said she told K12 administrators that was not her understanding of the law, but she would check with Walt Griffon, Executive Director for High Schools, SCPS. Lewis said Griffon said no to their proposal, meaning that "the teacher that is teaching the student must be the teacher that is certified in Florida to teach the student." When asked if K12 used the term "teacher of record," she responded they did and she understood "teacher of record" meant "the person who signs off and is the person who is reported to the state as the teacher and is certified." She said the way she understood K12's proposal could mean that "the teachers teaching the students may or may not be certified at all much less in the proper area, that they are certified, but not in the area they are teaching, or whether they are certified, but in a different state, or they are not certified at all, which is not something I would know."

Lewis said the terms "teacher of record," "teacher of class," or "actual teacher" are not terms that are used in Seminole County. She said she first heard these terms used by the K12 administrators, but she could not recall who used them. When asked specifically if K12 used non-certified teachers, Lewis responded they did. However, she was unable to provide any names of non-certified teachers used by K12.

The OIG asked Lewis to explain the K12 teachers that were not on the instructor list sent from K12 or were not listed on class rolls, which was annotated in the original complaint sent to the OIG. She said SCPS has teachers sign and verify class rolls. SCPS forwarded a copy of the class rolls to K12 that included the teacher names provided by K12. She said, however, her office received faxes verifying student class rolls with signatures from two teachers they did not recognize. Additionally, five teachers signed student class rolls, but were not listed on SCPS records as teachers of Seminole County students. Lewis further explained another email dated October 29, 2009, sent by Laura Creach, who at that time was a Lead Teacher for the K12 Educator Group, to Julie Frein, Senior Director, K12 Educator Group, that caused them to believe that K12 utilized "teachers of class" and "teachers of record," which they previously told K12 they were not allowed to do (*Exhibit A*). Lewis stated, SCPS staff instructed K12 staff during a phone conference that they must correct the student class rolls to reflect the person who was actually teaching the class.

Lewis said K12 administrators told her they [K12] did not realize the class list for SCPS had not been updated and that K12 would send SCPS the revised teacher rolls. Lewis said K12 expressed to her that some of the teachers that were on SCPS's list no longer taught some of the classes and K12 subsequently sent them the names of the teachers who were the current teachers. She said the comments about a "teacher of class" and "teacher of record" scenario raised the concern that teachers who were not certified could have been teaching at the beginning of the school year. Lewis added that

"Dominique [Ballacchino, SCPS Full-Time Equivalent Registrar Clerk] may have a clearer recollection; she dealt with that information more closely than I did." Lewis said her time was "very limited" considering all of her other responsibilities and Ballacchino worked closer with the actual checking of teacher certifications. Lewis made the point that her office "really doesn't know who is teaching" the students, "if it is not the person they [K12] are telling us then who is it?" She further commented, "If I can't find out from the company [K12], then who do I find out from, so that I can verify whether that person is certified or not, and if that person was certified, then why use another name?"

The OIG asked Lewis to provide her interpretation of an email (*Exhibit A*) from Samantha Gilormini, Project Manager, Florida Virtual Program, to K12 teachers that states, "Some teachers may notice a few extra students on their class roll and that is due to certification issues. In the virtual setting any teacher can teach the students the subjects but the districts like to have certified teachers in each subject. So if you see your name next to a student that might not be yours it's because you were qualified to teach that subject and we needed to put your name there." Lewis stated, "It means exactly what it says, that you will see students you didn't teach, please sign for them because districts like to have certified teachers." When asked if it was possible that Gilormini did not have a good understanding of the model K12 used in which there were homeroom teachers and specialized subject area teachers assigned to students who required additional help in subjects, Lewis responded she did not think that was the case because Gilormini had been with the K12 Virtual School Program for several years.

The OIG asked Lewis if one could look at archived data from previous school years on the Total View System, which is K12's internal data system that includes information on classrooms, students, courses, teachers, student attendance, and communications. She commented that she wished she could, but it was not possible, that it only stores the current school year. When asked if she looked at the Total View System data for teacher and other support staff information, Lewis said it is not a function that she normally performs, but her FTE clerks utilize the Total View System for information. She commented they get information directly from K12, which is "shipped to us in a certain format" into their data systems. Lewis said there is no other way to obtain student or teacher information.

The OIG asked Lewis if she questioned the certifications of teachers in the time period after September 2009 until the February 2011 Survey 3 Report (*Exhibit H*). She responded "there were times when the certifications of teachers were definitely questioned, we would find teachers who were not certified." She explained they would receive the teacher lists from K12, and "at survey time" they would run the lists of teachers through the "FDOE certification lookup" to confirm the certification numbers because they needed them as part of their reporting process to the state, and they discovered teachers who were not certified in Florida. She commented that her office notified K12 of their findings, and subsequently K12 submitted a new list replacing non-certified teachers with certified teachers. She recalled that this happened from 2009 until present. However, Lewis was unable to provide any specific evidence to support these comments. She related that Ballacchino was more familiar with the reporting process during the survey times and may have a better explanation of this situation. When asked how K12 responded to their findings, Lewis said she was not sure because Ballacchino notified the K12 administrators and had conversations with them about the teacher certification issues. Lewis understood that K12 administrators basically stated "they would get it changed, and send us another name." She also commented "there was a flurry of activities at survey times," meaning there was a number of teacher changes. When asked if she or anyone in her office actually discovered the use of non-certified teachers by K12, Lewis responded they have, which would be best explained by Ballacchino.

The OIG asked Lewis to explain the comment she made in her original complaint to the OIG in which she stated "the company promised to tighten up their practices." She said the comment came out of a 2009 conversation her office had with K12 administrators in which they discussed that K12 could not use the "teacher of record" and "teacher of class" scenario, and K12 "promised they would make sure

that would not happen anymore, that they would no longer have one teacher working with the students and another teacher signing off on them.”

Lewis commented that she thought the teacher who is teaching the student should be the only one reported on the student class roster. She said “the model of instruction in Florida for any school, whether it is a ‘brick and mortar school’ or virtual school, is that the teacher who is instructing the child be certified in the area in which they are instructing, they are the person delivering the instruction.” She said, “it is the whole idea that a teacher’s certification is associated with the student who didn’t have any instruction from that teacher, but that teacher’s certification is associated with that student and their performance.” Lewis further clarified that her office was not saying that the teachers’ names they received from K12 were not certified teachers, they were not sure how often there could have been discrepancies with the certified teachers’ names and who “for sure” was teaching the students. She said it was K12’s emails that raised the question about whether or not their teachers were certified, referring to the emails annotated in her original complaint to the OIG.

Lewis provided the OIG with additional information regarding the inaccuracy of the SCPS February 2011 class roles for K12 teachers and students (*Exhibit E*). According to Lewis, parents were called and asked to list the names of teachers for their children that were listed on the class rolls, as signed and verified by the K12 teachers. The class rolls contained 519 student enrollment entries, each entry containing a course with a corresponding teacher. The class rolls involved 18 K12 teachers. These courses combined to create a schedule for 88 students, of which 77 parents were contacted:

- 61 students were reported by parents to have been listed with at least one teacher they did not have.
- Parents reported one teacher’s name that did not appear on class rolls, “Ms. Jones.”
- Three parents reported they did not have a class that was listed and signed for by K12 teachers (1 Art and 2 Music).
- Most parents reported that they had one teacher for all subjects.
- The Physical Education, Art, and Music teachers especially were reported as not the teacher of the student; most parents reported that they had never heard of them.
- Parents reported that Art and Music classes were either covered by the “homeroom” teacher or those classes had no teacher at all.
- The number of students advised by parents that were not taught by a particular teacher was 183.
- The number of student enrollments reported as unsure by parents if taught by a particular teacher was 60.
- The number of student enrollments not discussed due to the inability to contact parents was 89.

#### **Testimony of Amy Capelle, Instructor, SCPS**

Capelle stated she was a teacher for K12 from January 2011 to July 2011. The OIG asked Capelle to explain K12’s February 2011 student class roll, which indicated that she had 112 student enrollment entries that were taught by her. She stated that only 28 of the student enrollments belonged to her, which equated to seven students, each receiving four different classes from Capelle. She said she was certified to teach all 28 enrollment entries. Capelle stated she did not know who the other 84 student enrollments were, which equated to 35 students. She said when she spoke to Gila Tuchman, K12 Florida Academic Administrator, about all of the additional students on her class roll, the response she received was that “virtual schools are different” and they can use non-certified teachers in their teaching program. Capelle said she told Tuchman that she would not sign her student class roll, and subsequently while she was on maternity leave, Tuchman signed it.

Capelle said she was aware of K12’s practice of using non-certified teachers, known as “teachers of class,” before receiving her February 2011 student class roll for Seminole County, and questioned the



number of unknown student entries on it. Capelle explained that before she worked for K12, she worked with the SCPS Virtual School Program helping to set up information for the program, and she became aware of discrepancies “with certified teachers not being registered that were actually assigned to the students.” Capelle said she could not recall any of the names or the number of the teachers involved in this practice. She said she heard from Dominique Ballacchino, who was the FTE Registrar Clerk for SCPS at that time, that there were conversations concerning FTE issues and discrepancies with the K12 Virtual School Program. When Capelle was asked if she knew of any non-certified teachers that K12 had used or currently uses in Florida, she could not provide any names.

Capelle said she had a total of 75 students in different districts assigned to her that she had contact with including the seven students in Seminole County. When asked what it means to have an “assigned student”, Capelle said, “It means that I am that student’s teacher, subject specific is what my understanding was because I would conference with them over any of their courses and verify they are making progress.” She added, “I do not know anything about any other students because they never told me about any other students. I do not know how you can you be a teacher if you do not know them.” Capelle further commented that she “did not know what K12’s model was with using a homeroom teacher and an assigned subject specific teacher for students.”

Capelle said she had access to the K12 Total View System while working as a teacher for K12, but she only had access to the seven students she was responsible for teaching. Capelle said she did not have access to any of the other students that were on her student class roll, that only a K12 administrator would have that sort of access.

#### **Testimony of Dominique Ballacchino, Instructor, SCPS**

The OIG asked Ballacchino if she had any knowledge of K12 teachers that were not certified or heard any conversations or discussions between K12 administrators or SCPS administrators about teachers that were not certified when she was the FTE Registrar Clerk, SCPS. Ballacchino responded that she never heard any conversations between K12 administrators regarding non-certified teachers, but heard discussions between SCPS administrators “about raising the question if they [teachers] are or not.” She specifically recalled conversations between a SCPS administrator, Diane Miller, and James Preston, Assistant Principal of Virtual School Programs, which occurred sometime during the 2011/12 school year and the 2012/13 school year. She said the conversations concerned missing certification numbers on the K12 teachers list. Ballacchino said they subsequently notified their Human Resources Department with the names of the teachers who did not have certification numbers and Human Resources conducted research to collect the data required to verify the certifications. She stated that to the best of her knowledge, she was never aware of any non-certified teachers providing virtual classes in SCPS.

When shown the two emails annotated in the original complaint addressing teachers that were not on the instructor list sent from K12 or were not listed on class rolls, Ballacchino said she recognized two names from the emails, but she could not recall the other five names. She stated she did not know if any of the seven teachers’ names were Florida certified teachers. Ballacchino said it was possible that the two emails concerning the seven names could have been about the K12 staff researching them to verify their Florida certifications.

Ballacchino said she worked with two types of systems while in her FTE Registrar Clerk position, the Total View System and the K12 teachers list in an excel format that included their certification information for SCPS. When asked, while in that position, if she had ever found any K12 teachers that were not certified for the school district, Ballacchino stated she had not. Ballacchino stated she had not tried to use Total View to look up any previous school year information and she was not sure if one could perform that function with Total View. Ballacchino was asked if anyone monitors or reviews the teachers listed on Total View to determine if they are certified. She said that none of their administrators

go into Total View to check if the actual teacher of a class that K12 provided to her office is the one teaching the students. She stated, “we’re assuming that they’re giving us the correct data, that the data does match, that’s the assumption that’s made.” Ballacchino said they do not conduct any type of certification check and the information they rely upon is verified by K12. She explained her understanding was that once K12 assigns a teacher to the students and enrollment is completed, K12 provides her office with a course list in the form of a spreadsheet report that includes the teachers’ and students’ names, and that is the information her office manually enters into their student data system. Ballacchino said at “survey time,” the FTE Registrar Clerk at the school district creates the survey reports from the student data system. She said she was not sure how FDOE received this information. She added that as previously mentioned, the SCPS Human Resource Department next does their review of students and K12 staff, which is all part of the state reporting process. Ballacchino related that two times a year, school districts verify for the state that all of the schools’ teaching staff are certified. She said this information is pulled from their student data system. She remarked, however, that “if teacher changes occur before the state reporting process, that will not be caught.” She said the state reporting process involves the Survey 2 and Survey 3 Reports in October and February, and if a teacher is replaced by another before the surveys are submitted, one would not know if the teacher that was replaced was certified or not.

Ballacchino explained that with the K12 model, their elementary program is different than their middle school or high school programs. She said with the course lists that K12 sends to them for the middle and high school model, there are different teachers for every course. She said if a student has six courses, he or she could typically have six different teachers. She said with the elementary model, there is the homeroom teacher who teaches the core classes of Language Arts, Reading, Math, Science, and Social Studies; and there is a different specialized elective teacher for Art, Physical Education, or Music. Ballacchino said it was Diane Lewis, Director, Instructional Technology, SCPS, who questioned whether the elective teachers on the course lists were really teaching or had any contact with students.

The OIG asked Ballacchino about Lewis’ statement regarding SCPS’ continual discovery that during “survey time,” the teachers list provided by K12 contained teachers who were not certified in Florida. Ballacchino said she did not recall the repeated submission of non-certified teachers. She said to the best of her recollection, and as she stated earlier, the information her office received from K12 had missing teacher and student information, including certification numbers, which is used for the reporting process at “survey time.” She said her office requested the missing information from K12, but it was not always provided in a timely manner. She reiterated that missing information from K12 occurred more often during the recent school years.

#### **Testimony of Laura Creach, K12 Curriculum Specialist for Product Development**

Creach stated her previous job title was Academic Administrator for K12 International Academy, and prior to that, she was employed as Lead Teacher for the K12 Educator Group. She said she was reassigned from the Lead Teacher position in November 2009. She added that, “in her mind, [the reassignment] was a demotion.” She believes she was demoted because of October 2009 student/teacher reports relating to certifications in three states, Florida, Arkansas, and South Carolina. She said specifically, she was demoted due to issues with the Florida Survey 3 Report in SCPS during that time. Creach said subsequently, she requested and was granted the Academic Administrator for K12 International Academy position.

Creach related that in November 2009, she received a spreadsheet with the roster of students from K12 and was asked to sign it acknowledging that she had taught the students listed on the roster. She said that 13 Geometry and Pre-calculus students in SCPS were assigned to her, but she never taught them. Creach said she was listed as the “teacher of record” on the roster, but she refused to sign it because it was inaccurate and she was not the actual teacher. She believed there were “ethical concerns.” She

stated that “teachers were teaching under her license” and that she was not the teacher for those students. She believed this was a “temporary solution” for K12. According to Creach, she had no students in Florida, but was listed on the spreadsheet as having students she never taught. When asked who actually taught the students reported by K12, Creach responded that she was not sure, but believed the actual teacher was Sara Ghorayeb. Creach also mentioned that she could never view any teacher information in K12’s Florida system because “Florida was set up separately, outside of the K12 Educator Group system.” She said she believed that Florida was the only state that operated in this manner.

According to Creach, K12 was using the term “teacher of record,” but they were not using the term “teacher of class.” She said she first heard the term “teacher of record” from her previous supervisor, Julie Frein, Senior Director, K12 Educator Group, and in Seminole County. When asked what course of action she took once she realized that she was being erroneously listed as the “teacher of record,” Creach said she notified Frein when the “teacher of record” model was being discussed. She said she thinks this is the reason that Florida’s visibility was “switched outside of the K12 Educator Group system.” Creach said she also notified another supervisor, as well as the K12 Senior Director of Human Resources and the K12 President of School Services. According to Creach, the response she received from her administrators was to “sit tight and Frein would get back to her.” In Creach’s words, she received no answers and was subsequently demoted. She said that eventually another K12 administrator, Allison Cleveland, responded during a meeting to correct the issues and new teachers were assigned. Creach said that her recollection was that her credentials were used for other non-credentialed teachers.

Creach said she believed certification issues surfaced during the particular time period of October and November 2009. She remarked that SCPS “came in at the last minute wanting classes and there wasn’t time to train teachers after Labor Day, things were done superfast, and mistakes were made” regarding K12’s efforts to build all of the required virtual classes during their high school program’s late start in 2009.

**Interviews of K12 Florida, LLC, Teachers during the 2010/2011 School Year:**

According to information provided to the OIG by SCPS, 18 Florida certified teachers were employed by K12 for students in Kindergarten through 12<sup>th</sup> grade for the 2010/2011 school year.<sup>4</sup> The OIG was able to telephonically interview 15 of these teachers. All 15 teachers confirmed that they met the certifications for the classes they taught in Florida (*Exhibit F*). Eleven teachers confirmed that all of the student enrollments on the February 2011 student class roll belong to them and they signed the class rolls (*Exhibit G*). In addition to Capelle, three teachers, Rebecca Brown, Julie Klayman, and Tina Hartman stated there were students on their class rolls that they did not recognize or did not teach:

**Brown:** The K12 February 2011 student class roll indicated that Brown had 83 student enrollment entries that were taught by her, which equated to:

- five students receiving six classes,
- two students receiving five classes,
- four students receiving two classes, and
- 35 students receiving one class.

Brown stated that there were 26 students on the class roll who were not a part of her homeroom classes, and she was not familiar with them. Brown said she signed the February 2011 student class

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<sup>4</sup> The OIG narrowed this investigation to the 2010/2011 school year due to the extent of evidence provided by Lewis and Capelle.

roll and explained that the other 26 students were possibly on her class roll because she was the “backup or secondary” teacher for those particular students.

**Klayman:** The K12 February 2011 student class roll indicated that Klayman had 44 student enrollment entries taught by her, which equated to 40 students. She said she provided teaching instructions to a total of 67 students from a combination of different Florida school districts. She stated that it was not likely for her to have 40 students for one class in SCPS. Klayman said she signed the February 2011 class roll even though she was not a teacher of record for additional students listed on her class roll.

**Hartman:** The K12 February 2011 student class roll indicated that Hartman had four Physical Education student enrollment entries from SCPS that were taught by her. Hartman stated she had 65 students in her homeroom from the other school districts and Physical Education was one of the classes that she taught; however, her homeroom did not include any SCPS students for the 2010/2011 school year. Hartman said she received the class rolls and was asked by a K12 supervisor to sign them. Hartman added she could not recall all of the student names on all of the rolls she received, and stated “all I know, I was asked to sign the documents sent to me.” The archived data provided by K12, Inc., (*Exhibit J*) for the period of January 2011 through March 2011 indicated that the four SCPS students assigned to Hartman for Physical Education had no interaction with her.

#### **Testimony of K12, Inc., Representatives**

Karen Ghidotti, Vice President, K12, Inc., School Management, Southern Region; Christopher Mohrman, Vice President, K12, Inc., Regulatory Affairs; and Kenneth Sukhia, Attorney representing K12, Inc., were interviewed as a group. Sukhia explained that Capelle was employed as a part-time teacher from October through December 2010. She became a full-time employee in January 2011 and K12 planned to assign a greater student load to Capelle. He said Capelle, however, was pregnant and the “transition of Amy’s remaining 28 students never occurred due to her maternity leave.” According to Sukhia, Capelle was out on maternity leave from February 25th to March 4th, 2011. Sukhia addressed a similar issue involving Hartman, who originally claimed she did not recognize four Physical Education students listed on the Survey 3 Reports from 2011. Sukhia said when he conducted his interview with Hartman (*Exhibit I*), Hartman told him that she misspoke when she told the FDOE, OIG investigator that she never taught any students from Seminole County. Sukhia said Hartman told him that when she was asked to sign the student class roll, she felt the K12 staff knew what they were doing with any documentation they sent to her, and in no way was the K12 staff forcing her to sign something she felt was inaccurate. Sukhia said Hartman told him there was never a situation in which she felt that by not signing the student class rolls she would be in trouble with the K12 staff. Sukhia further commented that 18 months had elapsed from the time Hartman taught the students.

The K12, Inc., group highlighted several issues that could make it difficult for a virtual teacher to remember if he/she taught a student:

1. The classes are taught virtually and teachers do not always have face-to-face contact with the students.
2. Students work at their own pace and higher performing students do not always participate in or log on all of the class sessions.
3. Sometimes students need additional short-term tutoring or remedial instruction and are temporarily placed with a different, more specialized instructor.
4. Students can “move” from one virtual class to another; students are informed of comparable classes they can take if they are unable to attend their originally scheduled class.
5. Virtual teachers hold classes in multiple school districts.
6. Not all instruction is presented through direct instruction. Some virtual classes, Art, Music, and Physical Education, are taught “asynchronously,” meaning that the instruction is not live and there is not teacher interaction in real time. The parents are the “learning coaches” with these

particular courses and they ensure the students are following the course program or activity. Consequently, teachers may have difficulty remembering who they taught.

When asked how teachers verify that students participate in their Art, Music, and Physical Education virtual classes, Ghidotti explained that there are multiple ways that K12 teachers interact with students. She said this includes “K-mail,” their web-based email system used by the teacher, students, and parents alike; *Elluminate* virtual instruction sessions, their online, collaborative, interactive classroom; phone contact; and face-to-face interaction. Ghidotti provided a computerized demonstration of an *Elluminate* virtual school session that provided the name of the teacher giving the class, as well as a listing of the attending students, and how they interact with the teacher during the live session. Ghidotti further stated that one could watch class sessions as they are occurring by accessing the *Elluminate* links to the direct instructional class. She commented that in the past, there was not a way of knowing which students actually participated during the actual class session, but as of the 2011/2012 school year, a list of students participating in the class is displayed during the class session, so attendance can be verified.

Ghidotti also provided a computerized version of their student spreadsheet report from February 2011 for the OIG. She said the student spreadsheet reports are documents that go to the school districts and contain student data such as student name, school number, course, and teacher. She said they are similar to class rosters that are used at regular schools and they are prepared by administrators, not teachers. She said the communication notes from the teachers to the students and parents can also be accessed in the student spreadsheet reports.

Ghidotti stated that she examined an original and a modified version of their February 2011 student spreadsheet report, which listed all of the teachers for SCPS. She said the original report was created on January 24, 2011, and modified on February 24, 2011. Modifications occur because revisions are made due to student withdrawals or additions, and classes could shift from one teacher to another before the final report is verified and distributed to the school districts for their review. She said she noticed that three teachers’ names, Danika Maines, Rebecca Brown, and Taffi Morris, were highlighted in yellow and that Capelle’s name “mistakenly” replaced theirs on the Survey 3 Report next to their students’ names. Ghidotti remarked that she was not sure what this meant, but she thought that the original intent was to assign these students to Capelle. She said, however, that because Capelle left on maternity leave, the February 2011 student spreadsheet report should have been further amended.

#### **Summary of the K12 Archived Data for SCPS for School Year 2010/2011**

Ghidotti provided the FDOE, OIG with the archived data of communication notes and “K-mail” from their virtual instruction program with SCPS for school year 2010/2011. Due to the size of the spreadsheet data, it will remain as part of the investigative case file. The OIG reviewed and analyzed the archived data for the period of January 2011 through March 2011 (*Exhibit J*). The purpose of the review was to *verify that teachers actually provided instruction to the students listed on their student class rolls and that all teachers held the proper certifications*. A close focus was conducted on the four K12 teachers, Capelle, Hartman, Klayman, and Brown that testified they neither recognized nor taught students that were assigned to them by K12. The following observations are noted:

1. The testimony provided by the teachers is accurate and the findings agree with statements made by teachers who maintained they did not recognize students on their roster.
2. The archived data of communication notes was submitted by K12, Inc., the company against whom the complaint was filed.
3. There is no evidence to substantiate that uncertified teachers were used for the K12 virtual program in SCPS. The OIG confirmed that all teachers identified in the data were certified.

4. The OIG was unable to examine K12's Total View System to validate the data contained in the Survey 3 Report or archived data of communication notes. K12 administrators informed the OIG that Total View is a live system and can be accessed for the current school year only.
5. A large majority of the K-mail transmissions were generic and did not evidence specific academic instruction by the teacher. The OIG cannot state with confidence whether or not the assigned teachers actually taught or had direct contact with the students listed on their rosters. The preponderance of K-mail communication from teachers consisted of generic email transmissions to families that were more administrative than instructional in nature. The communication notes documented specific academic instruction and intervention by the teacher. The communication notes listed a teacher's name next to a student for whom intervention was given.
6. The subject area(s) taught by the teachers were not obvious. It was difficult to determine if a given teacher was the homeroom teacher or a subject-specific teacher.
7. The archived data of communication notes shows that the four students, assigned to Hartman on the February 2011 Survey 3 Report for SCPS, had no interaction with her between January and March 2011.
8. The archived data of communication notes shows that 28 of the 35 students, assigned to Capelle on the February 2011 Survey 3 Report for SCPS, had no interaction with her between January and March 2011.
9. The archived data of communication notes shows that 29 of the 46 students, assigned to Brown on the February 2011 Survey 3 Report for SCPS, had no interaction with her between January and March 2011. Evidence supports that Brown did have interaction with 17 of the 46 students.
10. The extent of Klayman's contact with the students is difficult to confirm from the archived data. The evidence seems to confirm that Klayman had no significant interaction with the majority of the 41 students listed on the February 2011 Survey 3 Report. There were two instances that document interaction from Klayman related to reading intervention. Other K-mails reference non-instructional contact from Klayman related to technical issues, test results, and the FAIR test.

#### **Testimony of Patricia Betoni, Osceola County Head of Schools for K12**

Betoni was the Director of the Florida Virtual Instruction Programs from 2009 to 2011 for K12. The OIG asked Betoni why Capelle had 112 student enrollment entries on her February 2011 student class roll, when Capelle stated that only 28 of the student enrollments belonged to her, and she did not know who the other 84 student enrollments were. Betoni explained that Capelle had 35 students assigned to her because of the number of certifications she had for both elementary and middle school students. Betoni said she believed that in the short time that Capelle was employed with K12, she was transitioning from part-time to full-time and went out on maternity leave earlier than expected, all of which occurred at the same time. Betoni said the 28 student enrollments may have been her homeroom students, but she also had the other students assigned to her who she was responsible for regarding courses that those students could go to if they needed support. Betoni said she believed there might have been errors with the students they assigned to Capelle. She said it is hard to remember this situation from early 2011, but it was possible that when they "manually" replaced a homeroom teacher with the teacher that was responsible for teaching that course, such as Capelle, "it could have been a simple replace all" database mistake. Betoni remarked that it was not an intentional act, it appeared to be an error that they could fix themselves without involving Capelle.

When asked if it is the policy for K12 administrators to sign the student class rolls for all of the other school districts with the exception of Seminole County, Betoni explained that Seminole County was the only school district that required the teachers to sign the student class rolls. Betoni further clarified that K12 administrators do not sign any of the class rolls for any of the other Florida school districts. She said that they provide all of the teachers in the other school districts with the finalized student



spreadsheet report, but “Seminole was the only one that would turn it around into a student class roll and ask us [the K12 teachers] to sign line by line” to verify attendance at the school.

When asked to clarify the whole reporting process between K12 and the school districts, Betoni said that K12 creates the spreadsheet reports for student attendance and provides the spreadsheets to each district. She said the school districts upload that information into the Survey 3 Report. She said with SCPS, they go a step further to generate student class rolls from the information that K12 provides to them. Betoni said SCPS sends the student class rolls to her, and she forwards the student class rolls to each teacher to sign and date.

The OIG asked Betoni to explain the proposal by K12 to build virtual high school classes, and whether a teacher of record that was not the actual teacher of class could be used to sign off for students in order to meet the requirement for a Florida certified teacher, which was annotated in the original complaint sent to the OIG (*Exhibit A*). Betoni explained at that time, they only applied for providing virtual classes for kindergarten through the eighth grade in Florida; then legislation came out “at the last minute” requiring school districts to have a kindergarten to twelfth grade virtual school program. She said they approached FDOE about this situation and FDOE allowed K12 to come up with “a quick and fast project” to add the ninth through twelfth grade to their virtual school program. Betoni said they received approval from FDOE after the 2009/2010 school year started, and it was a rush to “build a high school” because SCPS amended their contract with K12 to reflect kindergarten through twelfth grade classes for that school year. Betoni remarked that they did not struggle to find the Florida certified teachers, “it was a struggle to start a high school in ten days” that included the logistics of fingerprinting teachers in Seminole County and building the curriculum, all of which caused a limitation of classes that could be offered at that point to meet the needs of students. She said that Diane Lewis was upset because K12 could not offer all of the classes that she expected and because of the high school program’s late start. Betoni said subsequently, K12 had a conference call including Lewis to decide on possible options for the high school students. She said K12 proposed allowing teachers to start the classes because they were already Florida certified, and at the same time make arrangements to get them fingerprinted. Betoni said SCPS told them “that was a no go,” that teachers must be certified and fingerprinted before any student contact. She said this meant some teachers had to fly to Florida to meet the fingerprint requirements for SCPS, which could not be accomplished within the short amount of time to meet the start of classes. Betoni remarked that K12 never suggested committing “an illegal practice” by using non-certified teachers. She said during the conference call, someone asked if “a teacher of record could be used in Florida” and the response was “no.” Betoni further remarked that she and Lewis had contact with each other “every single day” when K12 started as the virtual school provider in 2009, and if there were concerns or questions about the use of non-certified teachers, it did not come out in their correspondence or phone calls.

#### **Testimony of Gila Tuchman, K12 Florida Academic Administrator**

Tuchman explained that as an elementary teacher, Capelle could have multiple enrollments for each student, and there may have been students assigned to her she did not recognize by name because of the way K12 administrators “divided up the tasks for a subject specific teacher.” She said it is also possible that Capelle would not recognize all of the students because they were assigned to her on an as needed basis with little or no direct contact.

Tuchman stated she has never provided SCPS or any other Florida school district with non-certified teachers. She also stated to the best of her awareness, all K12 support staff that have any direct contact with students have had the proper background screenings. She said they do not use any teacher’s aides or any other type of paraprofessionals in their virtual programs. Tuchman said she is not aware of any K12 policy that allows for one teacher to be certified and another teacher to be non-certified in a virtual classroom setting.

When asked what her understanding was of “teacher of record” and “teacher of class” in SCPS, Tuchman responded that she has heard of these terms “in the industry,” but they do not use them in Florida and she has never seen them used with the students they serve in Florida. She remarked “in Florida, we would have no need for that because all of our teachers are certified.”

The OIG asked Tuchman about K12 teacher Julie Klayman who, like Capelle, had a large number of student names listed on her February 2011 student class roll, but the OIG found that there was no significant interaction between Klayman and students as a subject specific teacher (*Exhibit J*). Tuchman said her best explanation was that Klayman had a reduced homeroom student load because she was an Intensive Reading specialist and had a large number of students assigned to her as their support for reading assistance. Tuchman said it is possible that Klayman never had any contact with those assigned students, or she had contact with them, but never documented the communication.

The OIG asked Tuchman her interpretation of the email (*Exhibit A*) from Gilormini requesting K12 teachers to sign student rolls with extra students they did not teach, mentioned earlier in this report. She said that “this is a poorly written communication, I don’t believe that Samantha had a real understanding of the model where the teachers had a homeroom and also responsible for a subject area as well.” Tuchman remarked that she did not know why Gilormini brought up certification issues because there were none. Tuchman said “I think what Gilormini is trying to explain is what I referred to earlier that in hindsight, we probably should have done a better job of explaining to the teachers that you would see, for example, that a pool of students are your Math students even though they may not be coming to your class, but you are responsible for as the Math teacher even though they may not come and take advantage of your expertise.” Tuchman said she believed that is what Gilormini “is trying to convey in an awkward and unfortunate way that makes it seem like there was any impropriety.” She added that “to say there are certification issues is really just a poorly worded phrase by Samantha” and she did not know why Gilormini wrote the email in that manner.

Tuchman said Gilormini did not have a teaching background, was not part of the teaching staff, and therefore, did not have a full understanding of all their “terminology.” Tuchman said it is incorrect to interpret Gilormini’s email in a way that a teacher’s name is placed on a class roll with certain students because he or she is the only teacher certified to teach a specific class, but was not available to provide classroom time for those students.

### ALLEGATION 3: EVIDENCE & TESTIMONY

#### Summary Analysis of Out-of-Field Data

Diane Lewis provided a statement (*Exhibit L*) along with documentation that the OIG converted into a spreadsheet (*Exhibit M, columns A through J*) listing K12 teachers she believed were teaching out-of-field. According to Lewis, “In 2010-11 there are 16 instances of teachers reported by K12 as the teachers of the class that were not certified in the subjects they were reported as teaching. This is also the year in which emails from K12 and a survey of parents indicated that teachers reported by K12 may not always be the teachers working with the students.” The supporting documentation submitted by Lewis contained 47 data point entries for 20 students and involved three K12 teachers, Danika Maines, Taffi Morris, and Shanna O’Grady. The OIG evaluated the information to determine if the teachers were, in fact, teaching out-of-field, and the evaluation confirmed that these teachers taught courses outside of the field in which they were certified.

The OIG provided K12, Inc., with a copy of the spreadsheet and asked for their response. K12, Inc.’s, response (*Exhibit M, column K*) indicated that 21 of 47 student data point entries can provide evidence of direct instruction for the subject area provided by the teacher on staff that holds the appropriate certification for that subject; eight data point entries indicate that four students withdrew prior to the end

of the first semester and were not reported on the Survey 3 Report; and 14 data point entries regarding two courses contain no link to direct instruction for a course.

The OIG's review of the 47 data point entries determined that 49% of the entries (23 of 47) provided sufficient evidence that direct instruction was provided by a teacher holding the appropriate certification for that subject; 17% of the entries (8 of 47) contained no evidence of direct instruction because the students either withdrew or were not enrolled at all; and 34% of the entries (16 of 47) provided insufficient data to establish that K12 teachers held the appropriate certification for the subject they were teaching.

Data was classified as insufficient for a variety of reasons to include the following:

- The student was not in attendance and never logged into a given *Elluminate* online session.
- The wrong teacher was identified as the instructor for an *Elluminate* session and was inconsistent with the instructor named by K12.
- The reference cited by K12 in the Communication Notes or Kmail could not be located.
- A student who logged into the *Elluminate* session had the same last name, but the first name was different than that identified by K12.
- There was no specific information linking a particular student to a specific course with a properly certified instructor.
- The link to the *Elluminate* session occurred during a period outside of the Survey 3 period.
- The wrong course was indicated in the information provided by K12.

Sean Millard, Director of Data Reporting, Bureau of Education, Information, and Accountability Services, FDOE, provided the OIG with a list of all the K12 teachers, the courses they taught, and the students associated with the teachers and courses (*Exhibit M*). The list is the accumulated information from four Survey Reports of all courses taught for the 2010/2011 academic school year reported to FDOE from SCPS.<sup>5</sup> As stated earlier, K12 provides SCPS with a spreadsheet report of course, student, and teacher information, which SCPS enters into their student data system to create the Survey Reports.<sup>6</sup>

The OIG and Trinity Colson, Manager, Course Code Directory (CCD), Office of Articulation, FDOE, reviewed the information and found that three teachers, O'Grady, Morris, and Maines were reported as teaching classes outside the field in which they are certified according to the CCD (due to the size of the CCD, it will remain as part of the investigative file):

- ~~The~~ FDOE survey data showed that O'Grady was responsible for teaching Middle/Junior (M/J) Language Arts 3, Advanced; Algebra 1; M/J Earth/Space Science; M/J Physical Science; and M/J United States History. According to O'Grady's educational certification (*Exhibit F*) and the

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<sup>5</sup> One K12 teacher, Megan Ladouceur, who is listed on the Survey 3 Report the OIG received from SCPS is not posted on this list. Millard advised that a number of clerical errors could cause missing information in the survey reporting process.

<sup>6</sup> According to Rule 6A-1.0451, Florida Administrative Code, Florida Education Finance Program Student Membership Surveys, "School districts may submit amendments to student membership survey data in accordance with the following schedule: Survey Period 1 (July) may not be amended after September 30 following the survey; Survey Period 2 (October) may not be amended after March 31 following the survey; Survey Period 3 (February) may not be amended after July 31 following the survey; Survey Period 4 (June) may not be amended after August 31 following the survey, or until a membership survey audit as required by Rule 6A-1.0453, F.A.C., has been completed, whichever shall take place first. Such amendments which are submitted too late to be reviewed and included in the last membership data determining the earnings of Florida education finance program funds for the given year shall be treated as prior year adjustments."

CCD, she was not properly certified to teach these courses. O'Grady is certified to teach Elementary Education only.

- The FDOE survey data showed that Morris was responsible for teaching M/J Language Arts 2; M/J Language Arts 3; M/J Language Arts 3, Advanced; M/J Life Science; M/J Earth/Space Science; M/J Physical Science; and M/J United States History. According to Morris' educational certification (*Exhibit F*) and the CCD, she was not properly certified to teach these courses. Morris is certified to teach Elementary Education, M/J Mathematics, and M/J Science only.
- The FDOE survey data showed that Maines was responsible for teaching M/J Life Science; M/J Earth/Space Science; M/J Physical Science; M/J United States History; and M/J Civics and Career Planning. According to Maines' educational certification (*Exhibit F*) and the CCD, she was not properly certified to teach these courses. Maines is certified to teach Elementary Education, English for Speakers of Other Languages, and Mathematics only.

#### **Testimony of Carolyn Hevey, Human Resources Administrator, SCPS**

Hevey stated that one of her responsibilities includes managing teacher certifications. She said that K12 entered all of their student and teacher information into the School Administrative Student Information (SASI) database, which was a computer program that provided school administrators with access to student demographics, attendance, schedules, classes and grades for the 2009/2010 and 2010/2011 school years. She said the database name changed to *Skyward* for the 2011/2012 and current school year.

When asked about situations where teachers can teach out-of-field, Hevey commented that they try to avoid this type of teaching situation. She explained that when it occurs, teachers must work to eventually meet the specific course teaching requirements. Hevey said state laws, Sections 1012.42 and 1012.55, Florida Statutes, address the assignment of teachers outside the field in which they are certified (*Exhibit K*). She said the laws dictate that a teacher has a three year timeline to complete all of the requirements in order to be considered qualified to teach in an out-of-field assignment with no penalty to the school district. She said that some of the steps include the school board's approval and the notification to parents or guardians that their children's teacher has been assigned to teach out-of-field. Hevey stated that for the 2011/2012 school year, there were 65,000 students in SCPS and about 100 teachers were teaching out-of-field. When asked what the best way was to determine if a teacher is teaching out-of-field, Hevey said the Seminole County School Board can provide this information through their notification letters to parents or through their meeting minutes.

When asked to confirm whether K12 teachers Morris, Maines, and O'Grady were approved to teach out-of-field, Hevey reported that she "checked out-of-field reporting for the 2010-2011 school year [which] did not report Maines, Morris, and O'Grady out-of-field any time during the 2010-2011 school year, these individuals were not reflected in School Board minutes as being out-of-field, and we have no documentation of parent letters." Hevey mentioned, however, that contractors may not be bound by the same school board approval requirements as district employees.

#### **ADDITIONAL INFORMATION**

The OIG requested that K12, Inc., affirm the model of instruction employed by K12 Florida, LLC, for the 2010-2011 school year through a confirmation memorandum dated February 12, 2013 (*Exhibit O*). The K12, Inc., response on February 19, 2013, stated the following:

Each student was assigned to a homeroom teacher. The homeroom teacher worked directly with the student and the student's parent or other responsible adult, called the "learning coach" to ensure the student was completing their assignments. The homeroom teacher was

responsible for tracking progress, monitoring attendance within the online school and directing students to direct instruction sessions or other interventions conducted by other subject matter experts, supporting the student's learning goals, answering questions, and disseminating school announcements. Students had daily access to both their homeroom teacher for general information, support and guidance and daily access to teachers that are certified within each subject area. All students were provided information about the direct instruction sessions and other interventions conducted by the subject area teachers although some students may not have availed themselves of these interventions. A teacher could be both a homeroom teacher and serve as a subject-area specialist, if appropriately certified. The subject area instructors' duties included conducting regularly scheduled direct instruction sessions through *Elluminate* (a web meeting tool), reviewing and evaluating student work, providing feedback to students on their subject matter performance, grading student work, holding scheduled office hours and otherwise being accessible to provide additional assistance to students. Some staff referred the coordinated effort between a homeroom teacher and a subject area teacher working together to ensure that an individual student's needs are being met throughout the school year as "team teaching." However, "team teaching" did not mean that the homeroom teacher would teach or grade for an area that the homeroom teacher was not appropriately certified.

Supporting testimony by Tuchman related the model they followed at that time was a "team approach" and each student had a homeroom teacher, which they call today an "advisory teacher." The advisory teacher had the majority of the contact with the student by monitoring progress, supporting their goals, answering questions, one on one contact, and disseminating information. She further explained the model included subject area specialists that were responsible for particular subjects. Therefore, a teacher could be both a homeroom teacher and serve as a subject area specialist whose duties included a schedule of office hours to offer direct instruction and provide *Elluminate* classes as a way for assigned students to reach out for additional support. Tuchman again commented that in Capelle's case, as a homeroom teacher, she may not have recognized all of her additional students assigned to her for specific subject instruction because there may not have been any direct contact with them. She said these students could have been advised by their assigned homeroom teacher about specific classes provided by an assigned subject specific teacher and the homeroom teacher invited them to attend those classes. Tuchman added that as part of the model, the parent has the role of "learning coach."

Tuchman said with the other K12 teachers the OIG interviewed who expressed that they did not recognize the additional students assigned to them on the February 2011 student class roll, they too had students assigned to them for specific subjects, but the teachers probably did not have a relationship with the students because they did not attend the specific classes or have contact with the assigned subject specific teachers. She said a student could go through a whole course independently, master and complete that course, with just the homeroom teacher monitoring the student's progress and without seeking the assistance of the assigned subject area specialist.

Tuchman said she did not recall having any conversations with Capelle or any other teachers about them questioning the additional students on their student class roll. When asked about her signing Capelle's February 2011 student class roll, Tuchman said she signed it "stating that those students were in attendance during that period of time," and not necessarily sitting in the actual class, but they were "taught by a certified teacher," and "that is my understanding of that document." Tuchman further explained that students complete their lessons online and "that is the crux of what we are evaluating" and that "those students were enrolled in our school and attending class by logging lessons online and that "was what I was affirming" when she signed Capelle's student class roll. She said that all of the student names on each teachers' student class rolls indicate that the students were either assigned as homeroom students or for subject specific classes taught by that teacher. Tuchman said she did not remember the exact time table of when the additional student assignments took place, but it was



possible with Capelle becoming full-time, that students were “slated” to her for that reason. She further commented she signed Capelle’s student class roll because Capelle “was not available, she was on maternity leave at that time.” Tuchman said that Capelle’s student class roll was the only one she signed in the five years she has been an Academic Administrator with K12.

Tuchman explained that with their virtual school program capabilities at that time (2010/2011 school year), teachers saw their students in their homeroom class in order to monitor students’ progress and interact with them. She said, however, with the subject specific course classrooms, there was not the full visibility of who actually attended those classes. She said today, there is no question who is attending the actual online classes because the subject specific teachers have full visibility on their computer monitors of who is attending their class through *Elluminate*. Tuchman said with this capability, “teachers worked together collaboratively” to better support the students’ needs or concerns and make changes to assignments as needed. She remarked that perhaps they could have previously done a better job conveying to the subject area specialists the students who could potentially join their classes for additional help with their lessons. Tuchman reiterated that all of their teachers are certified, and with Capelle’s particular situation, “At worse here, there could be a clerical error, but to say that they were not certified teachers is untrue.” Tuchman stated that K12 has always used only certified teachers in Florida, and they do not accept teachers with temporary certifications, which is acceptable in “brick and mortar” schools.

According to Section 1012.55(1), Florida Statutes, and Rule 6A1.09412, Florida Administrative Code, a course funded through the Florida Education Finance Program (FEFP) may be taught only by a Florida certified teacher who is certified in the subject specified in the Course Code Directory, pursuant to Section 1012.55, Florida Statutes and Rule 6A-1.09412, Florida Administrative Code. The course content is defined according to the course descriptions contained in the publication, “Florida Course Descriptions for Grades K-12/Adult, Basic Education.” The course teacher is responsible for the curriculum, assignments, and tracking the progress of the student in the course. These duties are not delegable to a “homeroom teacher” or to the parent or to the student. The models employed by K12 in Florida must be consistent with these principles and must be communicated from management to all instructional staff.

## **CONCLUSION**

Based upon witness testimony and documentation received:

Allegation 1: There is no evidence that K12, the virtual school provider for the Seminole Virtual Instruction Program, used teachers that were not certified to teach in the State of Florida:

- Lewis was unable to provide any specific evidence to support that K12 provided teachers who were not certified in Florida.
- Capelle could not provide any names of non-certified teachers that K12 used or currently uses in Florida.
- Ballacchino stated to the best of her knowledge, she was never aware of any non-certified teachers providing virtual classes in SCPS.
- A review of the archived data for the period of January 2011 through March 2011 submitted by K12, Inc., showed that all teachers used for the K12 virtual program in SCPS identified in the data were certified.

Allegation 2: There is evidence that K12 provided SCPS with inaccurate student/certified teacher lists for the 2010/2011 school year in which the teachers had no student interaction or student recognition:



- The archived data provided by K12 for the period of January 2011 through March 2011 indicated that the four SCPS students assigned to Tina Hartman for Physical Education had no interaction with her.
- The archived data provided by K12 for the period of January 2011 through March 2011 shows that 28 of the 35 SCPS students assigned to Cappelle, 29 of the 46 SCPS students assigned to Brown, and 39 of 41 SCPS students assigned to Klayman had no interaction with them.
- Parents reported to Lewis that 61 students were listed with at least one teacher they did not have.
- In addition to Capelle's testimony, three teachers stated there were students on their class rolls they did not recognize or did not teach.
- K12 acknowledged that errors were made with students assigned to Capelle.

Allegation 3: There is evidence showing that K12 assigned three teachers for the 2010/2011 school year to instruct classes outside of the field in which they were certified:

- The FDOE Bureau of Education, Information, and Accountability Services provided the OIG with a list of the accumulated information from four Survey Reports of all courses taught for the 2010/2011 academic school year reported to FDOE from SCPS. The OIG found that three teachers were reported as teaching classes outside the field in which they are certified according to the CCD.
- The OIG conducted a review of the documentation Lewis provided regarding three teachers she advised taught courses outside of the field in which they were certified. The review disclosed instances of insufficient evidence to establish that direct instruction was provided by properly certified teachers. K12, Inc., evaluated the same documentation and could not provide evidence of direct instruction by teachers that hold the appropriate certification for at least two courses. As stated earlier (*footnote 4*), school districts have deadlines to submit amendments to student membership survey data for the four survey periods of July, October, February, and June.

## RECOMMENDATIONS

Based on testimony and evidence received, the OIG recommends K12 consider the following:

- As an internal control measure, K12 should require VIP instructors to sign the class rolls; only those instructors that actually teach the course and have direct contact with students should be permitted to sign the class rolls. VIP administrators should be restricted from signing any class rolls in place of the instructor.
- K12 should improve the procedures for recording and retaining instructor, student, and course records. These records should be stored in a format that ensures they are complete, reliable, and available for review for the statutorily required three years, in accordance with the State records retention guidelines within Section 119.021(2)(a) and (b), Florida Statutes - Custodial requirements; maintenance, preservation, and retention of public records; and Rule 1B-24.003(1), Florida Administrative Code, Records Retention Scheduling and Disposition.
- K12's reports to SCPS should distinguish between the homeroom students and the specialized subject area students for each teacher. All data provided by K12 to SCPS for Survey Reports should accurately reflect the actual course instructor.
- A course funded through the Florida Education Finance Program may be taught only by a Florida certified teacher who is certified in the subject specified in the Course Code Directory, pursuant

to Section 1012.55, Florida Statutes and Rule 6A-1.09441, Florida Administrative Code. The course content is defined according to the course descriptions contained in the publication, "Florida Course Descriptions for Grades K-12/Adult, Basic Education." The course teacher is responsible for the curriculum, assignments, and tracking the progress of the student in the course. These duties are not delegable to a "homeroom teacher" or to the parent or to the student. The models employed by K12 in Florida must be consistent with these principles and must be communicated from management to all instructional staff.

OIG recommends the following to SCPS:

SCPS must submit accurate FTE surveys for its virtual programs pursuant to Section 1011.62, Florida Statutes, and ensure that all instructors are appropriately certified and in-field pursuant to Section 1012.55, Florida Statutes and the Course Code Directory. As such, it is recommended that SCPS consider:

- Engaging in a review process with its district virtual instruction providers, including K12, to ensure accurate FTE reporting and program compliance;
- Monitoring class rosters independently of K12. As an added control measure SCPS should consider periodically surveying parents to verify who is providing instruction to their students.
- Strengthening contracts with VIP providers, including K12, to reflect the details of the teaching model they utilize, the length of time for retaining school records, and student/teacher accountability measures.

It is further recommended that FDOE consider:

- Ensuring that K12 implements appropriate corrective action plans to address the identified reporting and out-of-field instructor issues in order to remain compliant with the requirements in Section 1002.45, Florida Statutes.
- Referring findings relating to courses taught by out-of-field instructors and reported for FTE funding to the Office of Auditor General for further review.
- Collaborating with SCPS and K12 to review reporting processes, ensuring that the data reported to FDOE for FEFP funding is accurate.